

Vicki L. Smith, OSB No. 854410
smithv@lanepowell.com
Cassandra Mercer, OSB No. 141054
mercerc@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204-3158
Telephone: 503.778.2100
Facsimile: 503.778.2200

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**WB MUSIC CORP., SEVEN PEAKS MUSIC,
THAT WAS ZZ MUSIC, MUSIC FROM
THE BOARD WALK, UNIVERSAL MUSIC
CORPORATION, DIRTY DRE MUSIC, LIL
VIDAL MUSIC, TOILET BRAIN MUSIC,
NAUGHTY MUSIC, NEUTRAL GRAY
MUSIC, PURE LOVE MUSIC, UH OH
ENTERTAINMENT, INC., and WUT'
SHAWAN-A DO MUSIC, INC.,**

Plaintiffs,

v.

DONALD HARVEY,

Defendant.

Case No. _____

COMPLAINT
Copyright Infringement (17 U.S.C. § 501)

Plaintiffs WB Music Corp., Seven Peaks Music, That Was ZZ Music, Music from the Board Walk, Universal Music Corporation, Dirty Dre Music, Lil Vidal Music, Toilet Brain Music,

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Naughty Music, Neutral Gray Music, Pure Love Music, Uh Oh Entertainment, Inc., and Wut' Shawan-A Do Music, Inc. allege as follows:

1. This is a suit for copyright infringement under Title 17 of the United States Code.
2. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue in this District is proper pursuant to 28 U.S.C. § 1400(a).
3. Plaintiffs allege five (5) causes of action for willful copyright infringement based on the Defendant's public performances of Plaintiffs' copyrighted musical compositions. SCHEDULE A, annexed to the Complaint, sets forth in summary form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted musical compositions, and Defendant's acts of infringement.
4. The Plaintiffs named in Column 2 of Schedule A are the owners of the copyrights in the original musical compositions listed in Column 3 of Schedule A and are properly joined in this complaint under Rule 20 of the Federal Rules of Civil Procedure.
5. On information and belief, Defendant Donald Harvey ("Harvey" or "Defendant") is an individual who resides and/or does business in this District.
6. At all times hereinafter mentioned, Harvey did, and still does, own, control, manage, operate, and maintain a place of business for public entertainment, accommodation, amusement, and refreshment known as Dr. Feelgood's Pub, located at 20419 Southwest Tualatin Valley Highway, Aloha, Oregon 97003.
7. Musical compositions were and are publicly performed at Dr. Feelgood's Pub.
8. At all times hereinafter mentioned, Harvey had, and still has, the right and ability to supervise and control the activities that take place at Dr. Feelgood's Pub, including the right and ability to supervise and control the public performance of musical compositions at the establishment.
9. Harvey derives a direct financial benefit from the public performance of musical compositions at Dr. Feelgood's Pub.

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10. The Plaintiffs are all members of the American Society of Composers, Authors, and Publishers (“ASCAP”), a membership association that represents, licenses, and protects the public performance rights of its more than 735,000 songwriter, composer, and music publisher members.

11. Each ASCAP member grants to ASCAP a non-exclusive right to license the performing rights in that member’s copyrighted musical compositions. On behalf of its members, ASCAP licenses public performances of its members’ musical works, collects license fees associated with those performances, and distributes royalties to its members, less ASCAP’s operating expenses.

12. Going back several years, ASCAP representatives have made numerous attempts to contact the Defendant. ASCAP’s representatives have contacted the Defendant or his representatives in person, and also via mail, telephone, and e-mail.

13. Defendant has refused all of ASCAP’s license offers for Dr. Feelgood’s Pub.

14. ASCAP’s various communications gave Defendant notice that unlicensed performances of ASCAP’s members’ musical compositions at Dr. Feelgood’s Pub constitute infringement of ASCAP’s members’ copyrights in their musical works.

15. Notwithstanding the foregoing, Defendant has continued to present public performances of the copyrighted musical compositions of ASCAP members at Dr. Feelgood’s Pub, including the copyrighted works involved in this action, without permission, during the hours that the establishment is open to the public for business and presenting musical entertainment.

16. The original musical compositions listed in Column 3 were created and written by the persons named in Column 4.

17. The original musical compositions listed in Column 3 were published on the dates stated in Column 5, and since the date of publication have been printed and published in conformity with Title 17 of the United States Code.

18. The Plaintiffs named in each cause of action, including their predecessors in interest, if any, complied in all respects with Title 17 of the United States Code, secured the exclusive rights and privileges in and to the copyright of each composition listed in Column 3, and received from the Register of Copyrights a Certificate of Registration, identified as set forth in Column 6.

19. Defendant on the dates specified in Column 7, and upon information and belief, at other times prior and subsequent thereto, infringed the copyright in each composition named in Column 3 by performing publicly compositions at Dr. Feelgood's Pub, for the entertainment and amusement of the patrons attending said premises, and Defendants threaten to continue such infringing performances.

20. The public performances at Dr. Feelgood's Pub of the Plaintiffs' copyrighted musical compositions on the dates specified in Column 7 were unauthorized: neither Defendant, nor any of the Defendant's agents, servants or employees, nor any performer was licensed by, or otherwise received permission from any Plaintiff, or any agent, servant, or employee of any Plaintiff, to give such performances.

21. In undertaking the conduct complained of in this action, Defendant knowingly and intentionally violated Plaintiffs' rights.

22. The many unauthorized performances at Dr. Feelgood's Pub include the performances of the five copyrighted musical compositions upon which this action is based.

23. At the times of the acts of infringement complained of, the Plaintiff named in each cause of action was an owner of the copyright in the composition therein named.

24. Defendant's wrongful acts have caused and are causing great injury to the Plaintiffs, which damage cannot be accurately computed, and unless this Court restrains the Defendant from the further commission of said acts, said Plaintiffs will suffer irreparable injury, for all of which the said Plaintiffs are without any adequate remedy at law.

WHEREFORE, Plaintiffs pray:

1. That Defendant and all persons acting under the direction, control, permission or authority of Defendant be enjoined and restrained permanently from publicly performing the aforementioned compositions—or any of them or any other compositions in the ASCAP repertory for which Defendant has no license—and from causing or permitting the said compositions to be publicly performed at Dr. Feelgood’s Pub, or at any place owned, controlled, managed, or operated by Defendant, and from aiding or abetting the public performance of such compositions in any such place or otherwise;

2. That Defendant be decreed to pay such statutory damages as to the Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not more than Thirty Thousand Dollars (\$30,000) nor less than Seven Hundred And Fifty Dollars (\$750) in each cause of action herein;

3. That Defendant be decreed to pay the costs of this action and that a reasonable attorney’s fee be allowed as part of the costs; and

4. For such other and further relief as may be just and equitable.

DATED: March 3, 2020

LANE POWELL PC

By s/Cassandra Mercer
Vicki L. Smith, OSB No. 854410
Cassandra Mercer, OSB No. 141054
Telephone: 503.778.2100
Facsimile: 503.778.2200
Attorneys for Plaintiffs

Schedule A

Columns						
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Cause of Action	Plaintiff	Musical Composition	Writers	Date of Publication or registration	Certificate of Registration Number	Date of Known Infringement
1.	WB MUSIC CORP.	WORTH IT	Mikkel Eriksen Ori Kaplan Priscilla Hamilton Brian Collins Tor Hermansen	November 18, 2014	PA 1-961-626	August 10, 2019
2.	SEVEN PEAKS MUSIC THAT WAS ZZ MUSIC MUSIC FROM THE BOARD WALK	365 DAYS	Zsuzsanna E. Ward (p/k/a ZZ Ward)	October 16, 2012	PA 1-824-075	August 31, 2019
3.	UNIVERSAL MUSIC CORPORATION DIRTY DRE MUSIC LIL VIDAL MUSIC	YO (EXCUSE ME MISS)	Andre Harris Vidal Davis Johnta M. Austin	October 25, 2005	PA 1-341-618	September 1, 2019

Schedule A

Columns

1	2	3	4	5	6	7
Cause of Action	Plaintiff	Musical Composition	Writers	Date of Publication or registration	Certificate of Registration Number	Date of Known Infringement
4.	TOILET BRAIN MUSIC	ZOOT SUIT RIOT	Stephen Perry	July 1, 1997	PA 915-164	September 1, 2019
5.	NAUGHTY MUSIC	TOO CLOSE	Robert L. Huggar	September 30, 1997	PA 914-746	August 9, 2019
	NEUTRAL GRAY MUSIC		Raphael Brown			
	PURE LOVE MUSIC		Keir L. Gist			
	UH OH ENTERTAINMENT, INC.		Denzil Miller			
	WUT' SHAWAN-A DO MUSIC, INC.		Robert Ford			
			Kurtis Walker			
			Lawrence Smith			
			J.B. Moore			